

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY JEROME LAWS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:24-cv-00309-CDB (SS)

ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS* AND
DIRECTING CLERK OF COURT TO ISSUE
SUMMONS, SCHEDULING ORDER, AND
CONSENT OR REQUEST FOR
REASSIGNMENT DOCUMENTS

(Docs. 2, 3, 7, 8)

Plaintiff Anthony Jerome Laws (“Plaintiff”) seeks judicial review of an administrative decision of the Commissioner of Social Security denying his claim for disability benefits under the Social Security Act. (Doc. 1). Plaintiff did not pay the filing fee and instead filed an application to proceed *in forma pauperis* (or “IFP”) pursuant to 28 U.S.C. § 1915. (Doc. 2). Plaintiff’s application did not contain sufficient information for the Court to determine whether Plaintiff is entitled to proceed IFP, and on March 18, 2024, the Court ordered Plaintiff to file a long-form IFP application. (Doc. 4). The Court also granted Plaintiff leave to file a first amended complaint as well as proof of a final decision of the Commissioner of Social Security. *Id.*

On April 4, 2024, Plaintiff filed a long-form IFP application as well as the first amended complaint. (Docs. 7-8). Upon review of the long-form IFP application, and the pleadings in the

first amended complaint, the Court grants Plaintiff's application to proceed *in forma pauperis*.

I. Proceeding in forma pauperis

In order to proceed in court without prepayment of the filing fee, Plaintiff must submit an affidavit demonstrating that he "is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). The right to proceed without prepayment of fees in a civil case is a privilege and not a right. *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 198 n.2 (1993); *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) ("permission to proceed *in forma pauperis* is itself a matter of privilege and not right; denial of *in forma pauperis* status does not violate the applicant's right to due process") (emphasis added). A plaintiff need not be absolutely destitute to proceed *in forma pauperis* and the application is sufficient if it states that due to his poverty, he is unable to pay the costs and still be able to provide himself and his dependents with the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). Whether to grant or deny an application to proceed without prepayment of fees is an exercise of the district court's discretion. *Escobedo v. Applebees*, 787 F.3d 1226, 1236 (9th Cir. 2015).

II. Screening Requirement

When a party seeks to proceed *in forma pauperis*, the Court is required to review the complaint and shall dismiss the complaint, or portion thereof, if it is "frivolous, malicious or fails to state a claim upon which relief may be granted; or...seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. §§ 1915(b) & (e)(2). A plaintiff's claim is frivolous "when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992).

III. Pleading Standards

A complaint must include a statement affirming the court's jurisdiction, "a short and plain statement of the claim showing the pleader is entitled to relief; and...a demand for the relief sought, which may include relief in the alternative or different types of relief." Fed. R. Civ. P. 8(a). The purpose of the complaint is to give the defendant fair notice of the claims, and the grounds upon

which the complaint stands. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). As set forth by the Supreme Court, Rule 8:

... does not require detailed factual allegations, but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action will not do. Nor does a complaint suffice if it tenders naked assertions devoid of further factual enhancement.

Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009) (internal quotation marks and citations omitted).

Vague and conclusory allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2 266, 268 (9th Cir. 1982). The *Iqbal* Court clarified further,

[A] complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2009). A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* at 556. The plausibility standard is not akin to a “probability requirement,” but it asks for more than a sheer possibility that a defendant has acted unlawfully. *Id.* Where a complaint pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of the line between possibility and plausibility of “entitlement to relief.”

Iqbal, 556 U.S. at 678. When factual allegations are well-pled, a court should assume their truth and determine whether the facts would make the plaintiff entitled to relief; legal conclusions are not entitled to the same assumption of truth. (*Id.*) The Court may grant leave to amend a complaint to the extent deficiencies of the complaint can be cured by an amendment. *Lopez v. Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

IV. Discussion and Analysis

Plaintiff seeks review of a decision by the Commissioner of Social Security denying disability benefits. (Doc. 1). The Court may have jurisdiction pursuant to 42 U.S.C. § 405(g), which provides:

Any individual after any final decision of the Commissioner made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of such decision or within such further time as the Commissioner may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides or has his principal place of business...The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.

1 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be
2 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h).

3 Plaintiff alleges the Appeals Council issued a notice denying a request for review of the
4 decision on January 10, 2024, after which Plaintiff had 60 days, plus five days for delivery by mail,
5 to file a civil action. (Doc. 7 p. 31). Thus, Plaintiff timely filed his complaint on March 14, 2024.
6 Plaintiff states that he resides in Bakersfield, California, County of Kern. *Id.* at 2. Therefore, the
7 Court has jurisdiction over this action.

8 **A. Plaintiff’s IFP Application**

9 In assessing whether an applicant’s income level meets the poverty threshold under
10 Section 1915(a)(1), courts look to the federal poverty guidelines developed each year by the
11 Department of Health and Human Services. *See, e.g., Boulas v. United States Postal Serv.*, No.
12 1:18-CV-01163-LJO-BAM, 2018 WL 6615075, at *1 n.1 (E.D. Cal. Nov. 1, 2018); *Calderon v.*
13 *Commissioner of Social Security*, No. 1:22-CV-00890-SAB, 2022 WL 3088494, at *1 (E.D. Cal.
14 July 27, 2022); *Trimm v. Commissioner of Social Security*, No. 1:22-CV-00663-BAM, 2022 WL
15 2239701, at *1 (E.D. Cal. Jun. 6, 2022) (collecting cases). The 2024 Poverty Guidelines for the
16 48 contiguous states provide that the poverty threshold for a household of one is \$15,060.¹

17 In the long-form application, Plaintiff represents that his only source of income is \$191 in
18 public assistance. Plaintiff receives no other forms of income, nor does he have any assets. (Doc.
19 8). Thus, it appears that payment of the \$405 filing fee would have an unreasonably adverse impact
20 on his ability to provide for the necessities of daily life.

21 **V. Conclusion and Order**

22 Plaintiff’s complaint states a cognizable claim for review of the administrative decision
23 denying Social Security benefits and his IFP application also demonstrates that he cannot pay the
24 filing fee without negatively affecting his necessities of daily life.

25 ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiff’s application to proceed *in*
26 *forma pauperis* (Docs. 2, 8) is GRANTED. The Clerk of Court is directed to issue the following:

27
28 ¹See HHS Poverty Guidelines for 2024 <https://aspe.hhs.gov/poverty-guidelines> (last visited April 5, 2024).

1 1) a Summons; 2) the Scheduling Order; 3) the Order re Consent or Request for Reassignment; and
2 4) a Consent to Assignment or Request for Reassignment form.

3 IT IS SO ORDERED.

4 Dated: April 5, 2024


UNITED STATES MAGISTRATE JUDGE